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CAMBRIDGE, MA 02138				
EXAMINER				
SHAFFER, RICKY D				
ART UNIT		PAPER NUMBER		
2872				
NOTIFICATION DATE		DELIVERY MODE		
12/26/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@ORTPATENT.COM

Office Action Summary

Application No.

10/594,604

Applicant(s)

GIRAUDET, GUILLAUME

Examiner

Ricky D. Shafer

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-21 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 28 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-85/86)
Paper No(s)/Mail Date 12/08/06 & 12/15/08
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 10, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Serrell ('446).

Serrell discloses a viewing device comprising a polarizing transparent viewing element divided into several zones [(10, 16, 22), (10, 122, 116)] at least one of said zones (10, 110) being associated with a light polarizing filter (see column 1, line 55 to column 2, line 23), light passing through said element being affected differently in two of said zones (i.e., zone 10, as compared to zone 16 or zone 22) depending on a polarization direction of said light (see column 1, line 55 to column 2, line 30 along with figures 1 and 2), the element being characterized in that the polarizing filter is oriented obliquely relative to a horizontal direction in a use position of the element with an angle between the orientation of the filter and the horizontal direction different from 90° and from 0° (see column 1, line 55 to column 2, line 14 along with figures 1 and 2), wherein the orientation of the polarizing filter in the use position of the element makes an angle of 135° to said horizontal direction (see column 1, line 55 to column 2, line 14 along with figures 1 and 2), wherein the element includes at least one additional zone (16, 116) associated with a polarizing filter oriented vertically with respect to the use position of the element (see column 2,

lines 15-23 along with figures 1 and 2) and wherein said viewing device comprises a pair of spectacles (see column 1, lines 53-55) and in that said polarizing transparent viewing element constitutes a lens of said pair of spectacles. Note figures 1 and 2 along with the associated description thereof.

3. Claims 1-5, 10, 11-14, 18 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Helpem et al ('588).

Helpem et al discloses a viewing device comprising a polarizing transparent viewing element divided into several zones [a left portion including upper and lower portions (42, 43) and a right portion including upper and lower portions (42, 43)], at least one of said zones (43) being associated with a light polarizing filter (see paragraph 0024), light passing through said element being affected differently in two of said zones (42, 43) depending on a polarization direction of said light [see Fig. 4(a)], the element being characterized in that the polarizing filter is oriented obliquely relative to a horizontal direction in a use position of the element with an angle between the orientation of the filter and the horizontal direction different from 90° and from 0° [see paragraph 0025 along with Fig. 4(a)], wherein the orientation of the polarizing filter in the use position of the element makes an angle of 135° to said horizontal direction [see paragraph 0025 along with Fig. 4(a)], wherein the zone associated with the obliquely oriented polarizing filter is located in a lower portion of the optical surface with respect to the use position of the element [see Fig. 4(a)], wherein the zone associated with the obliquely oriented polarizing filter is adjacent a lower edge of the element [see Fig. 4(a)], wherein the element includes at least one additional zone (42) associated with a polarizing filter oriented vertically with respect to the use position of the element [see paragraphs 0024 and 0025 along with Fig. 4(a)], wherein said

additional zone is located in a lateral portion of the element with respect to its use position [see Fig. 4(a)], wherein said additional zone extends over a width going from the external lateral edge of said element to a point at a distance of between 5 mm and 30 mm therefrom, measured along a straight line going from to lateral edge toward the optical center of said element (see Fig. 4(a)), wherein the optical zone comprises two additional zones (the zone between the left outer edge of the frame and element 43 and the zone between element 43 and the right outer edge of the frame) associated with respective polarizing filters oriented vertically with respect to the use position of the element [see Fig. 4(a)], said two additional zones being located in opposed lateral portions of the element [see the above explanation and Fig. 4(a)] and wherein said viewing device comprises a pair of spectacles [see Fig. 4(a)] and in that said polarizing transparent viewing element constitutes a lens (40) of said pair of spectacles. Note Fig. 4(a) along with the associated description thereof.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helpert et al ('588).

Helpert et al discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the upper boundary of zone (43) is located 20 mm or 10 mm below the optical center of the element.

It is well known to position bifocal portions of a lens a predetermined distance below the optical center of a lens based on the particular lens frame design in the same field of endeavor for the purpose of assisting an individual in reading without interfering with the individual's distance viewing of objects.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the positional dimension of the bifocal zone (43) of Helpert et al to satisfy the claimed dimensions as recited by applicant, as commonly used and employed in the art, in order to meet certain user specifications of assisting an individual in reading without interfering with the individual's distance viewing of objects, since it has been held that where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. *In re Gardner v. Tec Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984).

6. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helpert et al ('588).

Helpert et al discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that zone (43) is orientated horizontally.

It is well known to position or orientate a polarizing filter either vertically or horizontally in the same field of endeavor for the purpose of reducing dazzle or glare.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the positional arrangement of zone (43) of Helpert et al from a

vertical orientation to a horizontal orientation, as is known in the art, in order to similarly reduce dazzle or glare.

7. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helpem et al ('588) .

Helpem et al discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the two additional zones (42) are separated by a distance of between 10 mm and 60 mm, between 10 mm and 40 mm, or between 20 mm and 40 mm, in a central portion of said element.

It is well known to manufacture spectacle lenses having a predetermined size in the same field of endeavor for the purpose of placing and securing said lenses in a particular lens frame design, based on the size of an individual's face.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the size or dimension of the lenses of Helpem et al to satisfy the claimed dimensions as recited by applicant, as commonly used and employed in the art, in order to meet certain user specifications of assisting or correcting for an individual vision, in reading, since it has been held that where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. *In re Gardner v. Tec Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984).

8. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helpem et al ('588) .

Helpern et al discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the transparent viewing element constitutes a visor of a helmet or mask.

It is well known to use polarizing transparent viewing elements constituting a visor in helmets and masks in the same field of endeavor for the purpose of reducing dazzle or glare.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the form or shape of the transparent viewing element of Helpern et al to constitute a visor of a helmet, as commonly used and employed in the art, in order to similarly reduce dazzle or glare.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RDS
December 19, 2008

/Ricky D. Shafer/
Primary Examiner
Art Unit 2872

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Art Unit: 2872

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